

REMARKS

Claims 1 to 11 are pending. No new matter is believed or intended to be involved. Entry of these amendments is respectfully requested.

Rejection Under 35 U.S.C. § 102(b) over Beals et al.

Claims 1, 6, and 9-11, have been rejected under 35 U.S.C. § 102(b) as being anticipated by WO 99/23910 filed on behalf of Beals et al., hereafter, "Beals". Applicants respectfully traverse the rejection made by the Office.

It is well settled that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Additionally, the MPEP provides that drawings and pictures can be used as prior art. MPEP §2125. However, in order for a drawing or picture to anticipate a claim, the drawing or picture must clearly show the claimed structure. In re Mraz, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972).

In their rejection, the Office states:

As for claim 1, WO '910 [Beals] discloses in Figs. 1-3 an elongated handle 12 for a toothbrush 10 having distal and proximal ends, the distal end being connected to a head 14, the handle comprising a first grip portion at 16 adjacent the proximal end of the handle for holding in the user's hand, the first grip portion having an ovoid cross-section which has a major axis and a minor axis, and a second grip portion (just where ribs/ridges 22 are in Fig. 3) for manipulation by the user's fingers, extending from the first grip portion in the direction of the distal end of the handle, and having at least in a region adjacent the first grip portion an elliptical cross-section which has a major axis and a minor axis, wherein the major axis of the second grip portion is perpendicular to the major axis of the first grip portion.

(Office Action, Paper No. 20060804, pages 2-3).

Applicants note that Figures 1-3 of Beals show "a perspective view of a toothbrush... a top view of the toothbrush... [and] a side view of the toothbrush." (page 3, lines 4-7). Thus, none of Figures 1-3 show the cross section of the handle. As such, the rejection made by the Office relies on Figures which do not clearly show the claimed structure. Therefore, Figures cannot anticipate claim 1. Moreover, Applicants cannot find any written disclosure within Beals which pertains to the cross section of a first grip portion and/or the cross section of a second grip portion.

Based on the foregoing, Beals does not anticipate claim 1. Additionally, because claims 2-11 depend from claim 1, Beals similarly does not anticipate claims 2-11. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 102(b).

Rejection Under 35 U.S.C. § 103(a) over Beals et al.

Claims 2-5, 7, and 8, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Beals. Applicants respectfully traverse the rejection by the Office.

In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* Additionally, case law has established that "[d]ependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious." *In re Fine*, 837 F.2d 1071, 1076, 5 USPQ2d 1596 (Fed. Cir. 1988).


In view of the foregoing arguments with regard to the § 102(b) rejection, Applicants assert that Beals does not teach or suggest all the claim elements of claim 1. Accordingly, Applicants assert that claim 1 is nonobvious over Beals. Because claims 2-5, 7, and 8, depend from claim 1, Applicants assert that claims 2-5, 7, and 8, are similarly nonobvious over Beals for at least all of the reasons provided above with regard to claim 1. Therefore, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

Conclusion

Applicants respectfully request favorable reconsideration.

Respectfully submitted,

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By 
Signature

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